

## TELENGTAN BROTHERS & SONS, INC., PETITIONER, VS. UNITED STATES LINES, INC. AND THE COURT OF APPEALS, RESPONDENTS.

*G.R. NO. 132284. February 28, 2006*

Ponente: GARCIA, J.

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### GARCIA, J.:

Thru this petition for review on certiorari under Rule 45 of the Rules of Court, petitioner Telengtan Brothers & Sons, Inc. (Telengtan) seeks the reversal and setting aside of the decision[1] dated January 8, 1998 of the Court of Appeals (CA) in CA-G.R. CV No. 18349 which affirmed in toto the decision dated January 10, 1985[2] of the Regional Trial Court of Manila, Branch 38, finding petitioner liable to respondent United States Lines, Inc. (U.S. Lines) for demurrage and damages.

Petitioner Telengtan is a domestic corporation doing business under the name and style La Suerte Cigar & Cigarette Factory, while respondent U.S. Lines is a foreign corporation engaged in the business of overseas shipping. During the period material, the provisions of the Far East Conference Tariff No. 12 were specifically made applicable to Philippine containerized cargo from the U.S. and Gulf Ports, effective with vessels arriving at Philippine ports on and after December 15, 1978. After that date, consignees who fail to take delivery of their containerized cargo within the 10-day free period are liable to pay demurrage charges.

As recited in the decision under review, the factual antecedents may be summarized as follows:

On June 22, 1981, respondent U.S. Lines filed a suit against petitioner Telengtan seeking payment of demurrage charges plus interest and damages. Docketed as Civil Case No. R-81-1196 of the Regional Trial Court of Manila and raffled to Branch 38 thereof, the complaint alleged that between the years 1979 and 1980, goods belonging to petitioner loaded on containers aboard its (respondent's) vessels arrived in Manila from U.S. ports. After the 10-day free period, petitioner still failed to withdraw its goods from the containers wherein the goods had been shipped. Continuing, respondent U.S. Lines alleged that petitioner incurred on all those shipments a demurrage in the total amount of P94,000.00 which the latter refused to pay despite repeated demands.

In its amended answer with compulsory counterclaim, petitioner Telengtan, as defendant a quo, disclaims liability for the demanded demurrage, alleging that it has never entered into a contract nor signed an agreement to be bound by any rule on demurrage. It likewise maintains that, absent an obligation to pay respondent who made no proper or legal demands in the first place, there is justifiable reason to refuse payment of the latter's unwarranted claims. By way of counterclaim, petitioner states that, upon arrival of the conveying vessels, it presented the Bills of Lading (B/Ls) and all other pertinent documents covering seven (7) shipments and demanded from respondent delivery of all the goods covered by the aforesaid B/Ls, only to be informed that respondent had already unloaded the goods from the container vans, stripped them of their contents which contents were then stored in warehouses. Petitioner further states that respondent had refused to deliver the goods covered by the B/Ls and required petitioner to pay the amount of P123,738.04 before the goods can be released. It thus prays that respondent be ordered to pay the aforestated amount with interest.

After due proceedings, the trial court found for respondent U.S. Lines, as plaintiff therein, and accordingly rendered judgment, as follows:

WHEREFORE, in view of all the foregoing, the Court finds [petitioner] liable to [respondent] for demurrage incurred in the amount of P99,408.00 which sum will bear interest at the legal rate from the date of the filing of the complaint till full payment thereof plus attorney's fees in the amount of 20% of the total sum due, all of which shall be recomputed as of the date of payment in accordance with the provisions of Article 1250 of the Civil Code. Exemplary damages in the amount of P80,000.00 are also granted. The counterclaim is dismissed. Costs against [petitioner]. (Words in bracket ours)[3]

Party explains the trial court in its decision:[4]

In other words, contrary to [petitioner's] contentions, both the provisions of the contract between the parties, in this case the bill of lading, and the interpretation given by the higher courts to these provisions are to the effect that demurrage may be lawfully collected. As a matter of fact, [respondent U.S. Lines] has submitted official receipts showing that on many other and previous occasions, [petitioner] paid demurrage to [respondent] (Exhibits "F", "F-1" to "F-4", "G", "G-1" to "G-4", "H", "H-1" to "H-4", and "I", "I-1" to "I-3"). [Petitioner] is, therefore, in estoppel to claim that it did not know of demurrage being charged by [respondent] and that it had not agreed to it since these exhibits show that [petitioner] knew of this demurrage and by paying for the same, it in effect, agreed to the collection of demurrage.

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On the other hand, [petitioner] claims that [respondent] company owes them the far larger sum of P123,738.04 by way of damages allegedly suffered by their goods when [respondent] company removed these goods from its cargo vans and deposited them in bonded warehouses without its consent. It is not disputed that [respondent] company did not [sic] in fact remove these goods belonging to [petitioner] from its vans and deposited them in warehouses. However, this was done by authority of the Bureau of Customs and for that purpose, [respondent] addressed a letter-request to the Collector of Customs, for permission to remove the goods of defendant from its vans (Exhibit "L"). xxx.

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The Court finds that the charges for warehousing were necessary expenses covered by the terms of the bill of lading which the consignee was responsible for. There is therefore now no necessity of discussing whether or not the counterclaim of [petitioner] had prescribed or not. Neither is there any question of bad faith on the part of [respondent]. When it requested for authority to remove [petitioner's] consigned goods from its vans and deposited them in warehouses, [respondent] had already given consignee sufficient time to take delivery of the shipment. This, [petitioner] chose not to do. Instead, it sat pat by the telephone calling without making any positive effort to check up on the shipment or arrange for its delivery to its factory. Once arrived at the port, the shipment was available to consignee for its proper delivery and receipt and the carrier discharged of its responsibility therefor. Rather, by its inaction, [petitioner] was guilty of bad faith. Once it had received the notice of arrival of the carrier in port, it was incumbent on consignee to put wheels in motion in order that the shipment could be delivered to it. The inaction of [petitioner] would only indicate that it had no intention of taking delivery except at its own convenience thus preventing carrier from taking on other shipments and from leaving port. Such unexplained and unbusiness-like delay smacks highly of bad faith on the part of [petitioner] rather than of the [respondent]. (Words in bracket, added).

Appealing to the CA, whereat its recourse was docketed as CA-G.R. CV No. 18349, petitioner contended that the trial court erred in (1) holding it liable for demurrage, (2) dismissing its counterclaim, and (3) awarding exemplary damages and attorney's fees to respondent.

As stated at the outset, however, the CA, in its assailed Decision dated January 8, 1998,[5] affirmed in toto the

judgment of the trial court.

Undaunted, petitioner is now with this Court via the present recourse, imputing to the CA the following errors:

- xxx in concluding that it [petitioner] was the one at fault in not withdrawing its cargo from the container vans in which the goods were originally shipped despite documentary evidence and written admissions of private respondent to the contrary.
- xxx in affirming the trial court's order for the recomputation of the judgment award in accordance with Article 1250 of the Civil Code contrary to existing jurisprudence and without any evidence at all to support it.[6]

The petition is partly meritorious.

It is undisputed that the goods subject of petitioner's counterclaim and covered by seven (7) B/Ls with Shipper's Reference Nos. S-16844, S-16846, S-16848, S-17748, S-17750, S-17749 and S-17751[7] were loaded for shipment to Manila on respondent's vessels in container vans on a "House/House Containers-Shippers Load, Stowage and Count" basis. This shipping arrangement means that the shipping company's container vans are to be brought to the shipper for loading of its goods; that from the shipper's warehouse, the goods in container vans are brought to the shipping company for shipment; that the shipping company, upon arrival of its ship at the port of destination, is to deliver the container vans to the consignee's compound or warehouse; and that the shipper (consignee) is supposed to load, stow and count the goods from the container van.[8] Likewise undisputed is the fact that the container vans containing the goods covered by three (3) of the aforesaid B/Ls, particularly those with Shipper's Reference Nos. S-17748, S-17750 and S-17751,[9] were delivered to a warehouse, stripped of their contents and the contents deposited thereat.[10]

On the argument that the respondent, upon the foregoing undisputed facts, violated its contractual obligation to deliver when, instead of delivering the goods to the petitioner as consignee thereof, it deposited the same in bonded warehouse/s, petitioner would now score the CA for finding it at fault for non-withdrawal of its cargo from the container vans within the 10-day free demurrage period. Pressing the point, petitioner argues that, since the CA drew an erroneous conclusion from an undisputed set of facts, petitioner now asserts that the matter of who is at fault - its first assigned error - could be treated as a legal issue and not a question of fact.

After careful consideration, the Court sustain the CA's stance faulting the petitioner for not taking delivery of its cargo from the container vans within the 10-day free period, an inaction which led respondent to deposit the same in warehouse/s.

It may be that, when the relevant facts are undisputed, the question of whether or not the conclusion deduced therefrom by the CA is correct is a question of law properly cognizable by this Court.[11] However, it has also been held that all doubts as to the correctness of such conclusions will be resolved in favor of the disposing court.[12] So it must be in this case.

At any rate, the Court finds that petitioner's first contention raises a question of fact rather than of law. And settled is the rule that factual findings of the CA, particularly those confirmatory of that of the trial court, as here, are binding on this Court,[13] save for the most compelling of reasons, like when they are reached arbitrarily.[14]

As it were, however, the conclusion of the CA on who contextually is the erring party was not exactly drawn from a vacuum, supported as such conclusion is by the records of the case. What the CA wrote with some measure of logic commends itself for concurrence:

However, ... We find that [petitioner] was the one at fault in not withdrawing its cargo from the containers wherein the goods were shipped within the ten (10)-day free period. Had it done so, then there would not have

been any need of depositing the cargo in a warehouse.

It is incumbent upon the carrier to immediately advise the consignee of the arrival of the goods for if it does not, it continues to be liable for the same until the consignee has had reasonable opportunity to remove them.

Sound business practice dictates that the consignee, upon notification of the arrival of the goods, should immediately get the cargo from the carrier especially since it has need of it. xxx.

Appellant tries to shift the blame on the [respondent] by stating that it was not informed beforehand of the latter's intention to deliver the goods to a warehouse. It likewise alleges that it does not know where to contact [respondent] for it argues that the person manning the latter's office would only hold office for a few hours, if not always out. But had it taken the necessary steps of inquiring for the address of [respondent] from the proper government offices, then it would have succeeded in finding the latter's address.

Judging from the [petitioner's] way of conducting business in the past, We come to the conclusion that it is used to paying demurrage charges. Exhibits "H" and "I" are certainly proofs of appellant's practice of not getting its cargo from the carrier immediately upon notification of the goods' arrival. [15](Words in bracket added.)

It cannot be over-emphasized that the container vans were stripped of their cargo with the prior authorization of the Bureau of Customs. The trial court said as much, thus:

It is not disputed that [respondent] company did not [sic] in fact remove these goods belonging to [petitioner] from its vans and deposited them in warehouses. However, this was done by authority of the Bureau of Customs and for that purpose, [respondent] addressed a letter-request to the Collector of Customs, for permission to remove the goods of [petitioner] from its vans (Exhibit "L"). The corresponding authority was granted by the Bureau of Customs to do so as evidenced by a van permit... (Exhibit "M"). In other words, while [respondent] admits that it removed the goods of [petitioner] from its vans and deposited them in various warehouses, there is no question that this was done by authority of the Bureau of Customs which is the proper agency of the government charged with the supervision and regulation of maritime commerce.

Verily, the authority secured from the Bureau of Customs is indicative of the bona fides of respondent's intention. And as held below, the authority thus acquired relieved respondent of its obligations under the B/Ls when it caused the containers to be stripped and the goods stored in bonded warehouses.

Not lost on this Court is the fact that the B/Ls under which petitioner anchors its counterclaim allow the goods carried to be delivered to bonded warehouses for the shipper's and/or consignee's account if it does not take possession or delivery thereof as soon as they are at its disposal for removal. Section 17 of the Regular Long Form Inward B/L of the respondent[16] which is incorporated by reference to the Short Form of B/L[17] provides:

- The carrier shall not be required to give any notification whatsoever of arrival, discharge or any disposition of or action taken with respect to the goods, ... even though the goods are consigned to order with provision for notice to a named person.

The carrier or master may appoint a stevedore or any other persons to unload and take delivery of the goods and such delivery from ship's tackle shall be considered complete and all responsibility of the carrier shall then terminate.

It is agreed that when possession of the goods is received or taken by the customs or other authorities or by any operator of any lighter, craft, ... or other facilities whether selected by the carrier or master, shipper of consignee, whether public or private, such authority or person shall be considered as having received possession and delivery of the goods solely as agent of and on behalf of the shipper and consignee, .... Also if

the consignee does not take possession or delivery of the goods as soon as the goods are at the disposal of the consignee for removal, the goods shall be at their own risk and expense, delivery shall be considered complete and the carrier may, subject to carrier's liens, send the goods to store, warehouse, put them on lighters or other craft, put them in possession of authorities, dump, permit to lie where landed or otherwise dispose of them, always at the risk and expense of the goods, and the shipper and consignee shall pay and indemnify the carrier for any loss, damage, fine, charge or expense whatsoever suffered or incurred in so dealing with or disposing of the goods, or by reason of the consignee's failure or delay in taking possession and delivery as provided herein. (Emphasis Ours)

On the second issue raised, the Court finds as erroneous the trial court's decision, as affirmed by the CA, for the recomputation of the judgment award as of the date of payment in accordance with Article 1250 of the Civil Code.

In calling for the application of the aforementioned provision, respondent urged that judicial notice be taken of the succeeding devaluations of the peso vis-à-vis the US dollar since the time the proceedings began in 1981. According to respondent, the computation of the amount thus due from the petitioner should factor in such peso devaluations.[18]

Article 1250 of the Civil Code states:

In case an extraordinary inflation or deflation of the currency stipulated should supervene, the value of the currency at the time of the establishment of the obligation shall be the basis of payment, unless there is an agreement to the contrary.

Extraordinary inflation or deflation, as the case may be, exists when there is an unusual increase or decrease in the purchasing power of the Philippine peso which is beyond the common fluctuation in the value of said currency, and such increase or decrease could not have been reasonably foreseen or was manifestly beyond the contemplation of the parties at the time of the establishment of the obligation.[19] Extraordinary inflation can never be assumed; he who alleges the existence of such phenomenon must prove the same.[20]

The Court holds that there has been no extraordinary inflation within the meaning of Article 1250 of the Civil Code. Accordingly, there is no plausible reason for ordering the payment of an obligation in an amount different from what has been agreed upon because of the purported supervention of extraordinary inflation.

As it were, respondent was unable to prove the occurrence of extraordinary inflation since it filed its complaint in 1981. Indeed, the record is bereft of any evidence, documentary or testimonial, that inflation, nay, an extraordinary one, existed. Even if the price index of goods and services may have risen during the intervening period,[21] this increase, without more, cannot be considered as resulting to "extraordinary inflation" as to justify the application of Article 1250. The erosion of the value of the Philippine peso in the past three or four decades, starting in the mid-sixties, is, as the Court observed in *Singson vs. Caltex (Phil), Inc.*, [22] characteristics of most currencies. And while the Court may take judicial notice of the decline in the purchasing power of the Philippine currency in that span of time, such downward trend of the peso cannot be considered as the extraordinary phenomenon contemplated by Article 1250 of the Civil Code. Furthermore, absent an official pronouncement or declaration by competent authorities of the existence of extraordinary inflation during a given period, as here, the effects of extraordinary inflation, if that be the case, are not to be applied.

Lest it be overlooked, Article 1250 of the Code, as couched, clearly provides that the value of the peso at the time of the establishment of the obligation shall control and be the basis of payment of the contractual obligation, unless there is "agreement to the contrary." It is only when there is a contrary agreement that extraordinary inflation will make the value of the currency at the time of payment, not at the time of the establishment of

obligation, the basis for payment.[23] The Court, in *Mobil Oil Philippines, Inc. vs. Court of Appeals and Fernando A. Pedrosa*,<sup>[24]</sup> formulated the same rule in the following wise:

In other words, an agreement is needed for the effects of an extraordinary inflation to be taken into account to alter the value of the currency at the time of the establishment of the obligation which, as a rule, is always the determinative element, to be varied by agreement that would find reason only in the supervention of extraordinary inflation or deflation.

To be sure, neither the trial court, the CA nor respondent has pointed to any provision of the covering B/Ls whence respondent sourced its contractual right under the premises where the defining "agreement to the contrary" is set forth. Needless to stress, the Court sees no need to speculate as to the existence of such agreement, the burden of proof on this regard being on respondent.

WHEREFORE, the assailed decision of the Court of Appeals is **AFFIRMED** with the **MODIFICATION** that the order for recomputation as of the date of payment in accordance with the provisions of Article 1250 of the Civil Code is deleted.

Costs against petitioner.

**SO ORDERED.**

Puno, (Chairman), Sandoval-Gutierrez and Azcuna, JJ., concur.  
Corona, J. On Leave

[1] Penned by Associate Justice Arturo B. Buena, later appointed member of this Court (ret.), and concurred in by Associate Justices Buenaventura J. Guerrero (ret.) and Portia Alino-Hormachuelos; Rollo, pp. 30-36.

[2] Rollo, pp. 59-68.

[3] CA Decision; Rollo, pp. 30-31.

[4] RTC Decision; Rollo, pp. 64-68.

[5] See Note #1, *supra*.

[6] Petition; Rollo, pp. 7-8.

[7] Folder of Exhibits, Defendant Exhs. "1" - "7."

[8] Petition; Rollo, p. 22.

[9] *Ibid.*, Exhs. "4," "5" & "7."

[10] See paragraphs f, g & i of Respondent's Reply to Paragraph 17 of the Amended Answer with Compulsory Counterclaim filed with the RTC; Records, pp. 148-149.

[11] Regalado, *REMEDIAL LAW COMPENDIUM*, Vol. 1, 1999 ed, p. 541, citing *Com. of Immigration vs. Garcia*, L-28082, June 28, 1974.

[12] *Ibid.*, citing *Pilar Dev. Corp. vs. IAC, et al.*, G.R. No. 72283, Dec. 12, 1986.

[13] *Salvador vs. Montecillo*, 426 SCRA 433, 443 (2004).

[14] *Sunshine Finance & Investment Corp. vs. IAC*, 203 SCRA 210 (1991).

[15] *Supra*, pp. 34-35.

[16]Plaintiff-Exh. "K."

[17] Folder of Exhibits, Exh. "J"-Plaintiff.

[18] Petitioner's Manifestation before the trial court; Records, pp. 327-329.

[19] Singson vs. Caltex (Phils.), Inc., 342 SCRA 91, 97 (2000); Huibonhoa vs. CA, 320 SCRA 625, 653 (1999); Hahn vs. CA, 173 SCRA 675, 680 (1989); Filipino Pipe & Foundry Corp. vs. NAWASA, 161 SCRA 32, 35 (1988).

[20] Ibid., p. 98; Sangrador vs. Valderrama, 168 SCRA 215, 229 (1988).

[21] Sangrador vs. Valderrama, 168 SCRA 215, 228 (1998).

[22] 342 SCRA 91, 99 (2000); Lantion vs. NLRC, 181 SCRA 513, (1990); C.F. Sharp & Co., Inc. vs. Northwest Airlines, Inc., 381 SCRA 314, 320 (2002), Mobil Oil Phils., Inc. vs. CA, 180 SCRA 651, 667 (1989).

[23] Commissioner of Public Highways vs. Burgos, 96 SCRA 831, 837 (1980).

**[24] 180 SCRA 651, 667 (1989).**

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